

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CONSIDERATION OF THE EFFECT OF AN EXCHANGE OF STATE LAND ON EXISTING LESSEES AND THE TOTAL IMPACT OF THE EXCHANGE ON STATE REVENUE; AND AMENDING SECTIONS 77-1-204, 77-2-201, 77-2-203, 77-2-205, 77-2-211, 77-2-212, 77-2-213, AND 77-2-351, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 77-1-204, MCA, is amended to read:

**"77-1-204. Power to sell, lease, or exchange certain state trust lands.** (1) The board is authorized to lease state trust lands for uses other than agriculture, grazing, timber harvest, or mineral production under terms and conditions that best fulfill the duties of the board as specified in 77-1-202 and 77-1-203. The lease period for these leases, except for power and school site leases, may not be for longer than 99 years.

(2) The board may sell, exchange, or lease lands under its jurisdiction by virtue of 77-1-214 when, in the board's judgment, it is advantageous to the state to do so in the highest orderly development and management of state trust land. The sale, lease, or exchange may not be contrary to the terms of any contract that the board has entered into. In determining whether to exchange land, the board may consider the effect of the exchange on existing lessees and the total impact of the exchange on state revenue."

**Section 2.** Section 77-2-201, MCA, is amended to read:

**"77-2-201. Exchange of land with United States or tribal governments.** (1) (a) The board may enter into contracts or agreements with the United States or any department ~~thereof having~~ of the United States that has jurisdiction for the waiving and relinquishment to the United States of any rights of the state in and to sections 16 and 36 of any township and to any other parcel of state lands, ~~provided that land if the state shall, in lieu of the rights so waived and relinquished, receive~~ receives from the United States other ~~lands and~~ land of equal or greater value.

(b) The current user of the land transferred to the United States may continue to ~~enjoy the use of the land~~ under terms and conditions required by the federal government and in accordance with Public Law 88-607, as

1 amended, {43 U.S.C. 1411 through 1418}, and the current user of the land received from the United States may  
2 continue to ~~utilize~~ use the land on the terms and conditions imposed by law or by the board.

3 (2) The board may enter into a contract or agreement with a tribal government, as defined in 18-11-102,  
4 or with the United States for the relinquishment to the tribal government or to the United States in trust for the  
5 tribal government of any rights of the state to some or all state ~~lands~~ land located wholly within the exterior  
6 boundaries of the tribal government's reservation as recognized by the federal government; ~~however~~ However,  
7 the state, in exchange for these relinquished rights, must receive from the tribal government or the United States  
8 ~~lands~~ land of equal or greater value. ~~No~~ A contract or agreement may not be entered into under this section  
9 without first consulting with the board of county commissioners of the county or counties in which the lands to be  
10 exchanged are located.

11 (3) In determining whether to exchange land pursuant to this section, the board may consider the effect  
12 of the exchange on existing lessees and the total impact of the exchange on state revenue."  
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14 **Section 3.** Section 77-2-203, MCA, is amended to read:

15 **"77-2-203. Exchange for nongovernment, state government, and other state and local public**  
16 **entity land.** (1) Subject to subsection (2), the board is authorized to exchange state land for land owned by:

17 (a) the state or an agency of the state;

18 (b) a political subdivision of the state, including a county, city, town, public corporation, or district created  
19 pursuant to state law;

20 (c) any other public body of the state; or

21 (d) a nongovernmental entity, including but not limited to an individual, association, partnership, or  
22 corporation.

23 (2) The board may exchange the land described in subsection (1) if the land is of equal or greater value,  
24 as determined by the board after appraisal by a qualified land appraiser, than the state land and as closely as  
25 possible equal in area. The contents of the appraisal must be made available to any person who makes a written  
26 request to the board. The board shall place priority on exchanges that result in consolidation of state lands into  
27 more compact bodies. This section does not apply to exchanges undertaken under 76-12-107. In determining  
28 whether to exchange land pursuant to this section, the board may consider the effect of the exchange on existing  
29 lessees and the total impact of the exchange on state revenue.

30 (3) If the requirements of 77-2-204 and subsections (1) and (2) of this section are met, state lands

bordering on navigable lakes and streams or other bodies of water with significant public use value may be exchanged for nongovernment-owned land if the nongovernment-owned land borders on similar navigable lakes, streams, or other bodies of water."

**Section 4.** Section 77-2-205, MCA, is amended to read:

**"77-2-205. Restriction on exchange for nongovernment-owned land.** An exchange for nongovernment-owned land under 77-2-203 may not be made that will induce or encourage large-scale commercial, industrial, or residential development unless the development value is considered in determining the fair market value and unless the proposed development will not adversely affect the resources of the existing state tracts or those tracts that the state would receive under the proposed exchange. In determining whether to exchange land pursuant to this section, the board may consider the effect of the exchange on existing lessees and the total impact of the exchange on state revenue."

**Section 5.** Section 77-2-211, MCA, is amended to read:

**"77-2-211. Exchange of timbered, cut-over, or burned-over lands.** The board may accept on behalf of the state title in fee simple to any timbered ~~lands~~ land or ~~lands~~ land from which the timber has been cut or burned and in exchange may convey ~~lands~~ land not to exceed an equal value, as determined by the board after appraisal by a qualified land appraiser, of similar state land. However, an exchange may not be made unless the exchange, in the opinion of the board, will benefit the public interest. In determining whether to exchange land pursuant to this section, the board may consider the effect of the exchange on existing lessees and the total impact of the exchange on state revenue. For the purpose of an exchange, all state ~~lands~~ land, including ~~those~~ land referred to in 77-2-303(2), 77-2-311, and 77-5-101, ~~are~~ is subject to ~~be being~~ offered for exchange, and any restrictions against ~~their~~ the sale or disposal are, for the purpose of an exchange, released."

**Section 6.** Section 77-2-212, MCA, is amended to read:

**"77-2-212. Rules.** The board shall adopt and promulgate such rules and methods of procedure affecting or touching the for exchanges of ~~lands~~ land under 77-2-211 through 77-2-217 ~~as that~~ in its judgment ~~seems~~ seem advisable to the end that the public interests may be conserved. The rules must provide for consideration of the effect of an exchange on existing lessees and the total impact of the proposed exchange on state revenue."

**Section 7.** Section 77-2-213, MCA, is amended to read:

**"77-2-213. Department to investigate.** (1) When a proposal for an exchange pursuant to 77-2-211 is made and the owners of the respective tracts involved seem agreeable to negotiate exchanges, the proposal must be referred to the department and the department shall thoroughly investigate all the lands involved in the proposal, estimate the value of all of the ~~lands~~ land, and consider every factor in connection with the proposal that may affect the public interest. In determining whether to recommend an exchange of land, the department may consider the effect of the exchange on existing lessees and the total impact of the exchange on state revenue.

(2) The estimated fair market value must be determined by a Montana-licensed and Montana-certified appraiser."

**Section 8.** Section 77-2-351, MCA, is amended to read:

**"77-2-351. Sale to or exchange of property with public entity. (1)** Notwithstanding any other section in this chapter, any ~~lands~~ land may be sold to or exchanged for other land or for other consideration with another public entity on terms and in a manner that the board, after consultation with the appropriate legislative committee, may determine to be in the state's best interest, subject to The Enabling Act and constitutional restrictions. In the case of land that is not granted to or held by the state in trust for the support of the common schools, for a state institution, or for another specific purpose, the board may accept as partial or total consideration for the transfer of the land a binding commitment by the transferee to use the property to provide a community service or a benefit that fulfills a public purpose. The sale or exchange of the property may not be finally concluded until 60 days' public notice of the terms of the proposed sale or exchange has been given. As used in this section, "public entity" means any county, city, municipal corporation, school district, or special improvement or taxing district.

(2) In determining whether to exchange land pursuant to this section, the board may consider the effect of the exchange on existing lessees and the total impact of the exchange on state revenue."

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